

1 The Honorable Tana Lin
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 BUNGIE, INC.,

11 Plaintiff,

12 v.

13 ELITE BOSS TECH INCORPORATED,
11020781 CANADA INC., DANIEL
14 FAGERBERG LARSEN, ROBERT JAMES
DUTHIE NELSON, SEBASTIAAN JUAN
15 THEODOOR CRUDEN A/K/A
“LUZYPER,” JOHN DOE NO. 4 A/K/A
16 “GOODMAN,” YUNXUAN DENG A/K/A
“YIMOSECAI,” ANTHONY ROBINSON
A/K/A “RULEZZGAME,” EDDIE TRAN
17 A/K/A “SENTIENT”, CHENZHIJIE CHEN
A/K/A “CHENZHIJIE402, DSOFT, CVR
18 37454303, MARTA MAGALHAES A/K/A
MINDBENDER A/K/A BLUEGIRL, AND
19 JOHN DOES NO. 9-20,
20

21 Defendants.

Case No. 2:21-cv-01112-TL

PLAINTIFF’S UNOPPOSED MOTION
FOR EXTENSION OF TIME TO
IDENTIFY REMAINING DOE
DEFENDANTS

NOTE ON MOTION CALENDAR:
August 9, 2023

22 **OVERVIEW AND RELIEF REQUESTED**

23 Plaintiff Bungie, Inc. asks the Court to extend to September 18, 2023 the deadline for it
24 to identify any unidentified Doe defendants. Bungie needs this additional time as it has only last
25 week received records pursuant to a subpoena that might allow for such identification, and it is
26 still in the process of reviewing such records.

As explained below, Bungie has good cause to request such an extension as it could not force production of those documents any earlier. Even were Bungie’s reasons found to be insufficient, the Court still has discretion to extend the time period for identifying such Doe defendants and should exercise that discretion.

FACTUAL BACKGROUND

This case arises out of an international conspiracy to create, distribute, and sell illegal cheats that work with Bungie games. As the Court is already aware, the Wallhax Enterprise (in which the various Named Defendants and Doe Defendants are or were involved) is a wide-ranging international conspiracy among various actors to create, market, sell, and profit from the illegal Wallhax Cheat. *See* Dkt. Nos. 28, 77. Those involved in the Wallhax Enterprise have taken great pains to cover their tracks to make it difficult to identify them, as further described in the Court’s previous Order on Bungie’s Motion for Default against one defendant. Dkt. No. 77. Because the identity of some of those conspirators remains unknown, Bungie’s amended complaint (Dkt. No. 43) identified many of those defendants as Doe defendants.

On May 30, 2023, the Court granted Bungie an additional 60 days in which to file a further amended complaint that identifies any of those Doe defendants. Dkt. No. 84. At the time of that Order, Bungie expected to have soon obtained further information regarding those Doe defendants as a result of ongoing negotiations as well as an outstanding document subpoena to Google. Dkt. 83 (Tewson Decl., ¶¶ 23-25).

However, the negotiations have taken longer than expected, although they are expected to conclude shortly. Schmeyer Decl., ¶¶ 2. Similarly, Google took longer than expected to produce the documents requested, and indeed Bungie only received those voluminous documents last week on Friday, August 4. Schmeyer Decl., ¶¶ 2. Although Bungie hoped to receive those documents earlier, Bungie had no control over when Google would produce those documents.

Bungie is diligently reviewing those documents and hopes that with those documents along with any further information gleaned from negotiations, it will be able to identify any

1 remaining Doe defendants by September 18, 2023. Bungie thus requests an extension of time
2 until then to file any further amended complaint identifying those Doe defendants. Bungie has
3 contacted the attorneys for the only remaining identified defendant, and they have no objection
4 to this requested extension of time. Schmeyer Decl., ¶ 3.

5 **ARGUMENT**

6 **A. THE COURT SHOULD EXTEND ANY DEADLINES FOR AMENDING THE
7 COMPLAINT**

8 The Court has discretion to extend filing deadlines. *Pincay v. Andrews*, 389 F.3d 853,
9 860 (9th Cir. 2004) (en banc). The determination of whether to grant such an extension of time is
10 an equitable determination that should take into account all surrounding circumstances. *Pioneer*
11 *Investment Service Co. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 395 (1983). A
12 plaintiff should generally be given a chance through discovery to identify unknown Doe
13 defendants. *Gillespie v. Civiletti*, 629 F.2d 637, 642 (1980).

14 As in *Gillespie*, the documents only recently received from Bungie's subpoena to Google,
15 along with an expected interview of another participant in the Wallhax Enterprise, will likely
16 allow Bungie to identify (and then serve) additional Doe defendants. The Court's Order on
17 Bungie's motion for default judgment demonstrates that Bungie's claims against the remaining
18 Doe defendants have merit. Dkt. No. 77.

19 Although Bungie hoped to have received such documents and information earlier, it has
20 been and continues to remain diligent in seeking to identify the remaining Doe defendants.
21 Thus, Bungie respectfully submits this request for a further extension of time to September 18,
22 2023 to file an amended complaint naming any remaining Doe Defendants that can be identified.

23 **CONCLUSION**

24 For all of the above reasons, Bungie's Motion for Extension of Time should be granted,
25 and Bungie should be given until September 18, 2023 to file any further amended complaint.

DATED this 9th day of August, 2023.

By: s/ Brian W. Esler

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Attorneys for Plaintiff

1 CERTIFICATE OF SERVICE
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3 I hereby certify that I electronically filed the foregoing with the Clerk of the Court
4 using the CM/ECF system which will send notification of such filing to the attorneys of record
5 for the parties.

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7 DATED this 9th day of August, 2023.
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11 /s/ Kristin Martinez Clark
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